

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)	
)	NSD File No. L-99-55
Petition of the Public Utility Commission of Texas)	
Expedited Decision for Authority to Implement)	CC Docket No. 96-98 ✓
For Number Conservation Measures)	

BELLSOUTH COMMENTS

BellSouth Corporation, by counsel and on behalf of its affiliated companies,¹ opposes the request of the Texas Public Utility Commission ("Texas PUC") for an additional delegation of authority to implement thousands block number pooling, unassigned number porting, reclamation of unused NXX codes and thousand number blocks, requiring all codeholders to provide to the Texas PUC utilization and forecast information, and sequential numbering enforcement authority. The Texas PUC Petition should be denied without prejudice to refile, if necessary, after the conclusion of the Commission's Number Resource Optimization Proceeding.²

The *Pennsylvania Order's*³ mandate that the uniform system of numbering not be undermined by inconsistent regimes for numbering conservation and area code relief is best

¹ BellSouth Corporation (BSC) is a publicly traded Georgia corporation that holds the stock of companies which offer local telephone service, provide advertising and publishing services, market and maintain stand-alone and fully integrated communications systems, and provide mobile communications and other network services world-wide, including Texas through Houston Cellular Telephone Company, L.P. ("Houston Cellular").

² *Numbering Resource Optimization*, CC Docket No. 99-200, Notice of Proposed Rulemaking, FCC 99-122 (released June 2, 1999). (NRO NPRM).

³ *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997, Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and*

fulfilled by the Commission's decision not to consider any state petition for additional delegated authority until it completes its findings in the NRO NPRM.⁴ In the federal and state partnership needed to assure maximum number resource optimization, the Commission should consider state requests for additional delegated authority only when a state commission can demonstrate that it has implemented administrative measures and optimization solutions in accordance with all six NRO criteria.⁵ This approach will assure the uniformity and consistency sought by the Commission and avoids the problem of piecemeal inefficiency identified in the *Pennsylvania Order*.

In the meantime, states like Texas should be encouraged to use the number optimization solutions already available to them to help conserve the telephone number resource. States already have the inherent authority to address one of the prime number exhaust drivers, multiple rate centers, through rate center consolidation. The Texas PUC states that as of September 13,

717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19023 (1998) (*Pennsylvania Order*).

⁴ *Numbering Resource Optimization*, CC Docket No. 99-200, BellSouth Comments (filed July 30, 1999); *State Utility Commission Requests for Additional Authority to Implement Telecommunications Numbering Conservation Measures*, NSD File Nos. L-98-136, L-99-19, L-99-21, L-99-27, L-99-33, BellSouth Comments (filed July 16, 1999); *New York Department of Public Service Petition for Additional Authority to Implement Number Conservation*, NSD File No. L-99-21 BellSouth Comments (filed April 5, 1999); *Florida Public Service Commission's Petition to Federal Communications Commission for Expedited Decision For Grant of Authority to Implement Number Conservation Measures*, NSD File No. L-99-33, BellSouth Comments (filed May 14, 1999), and Reply Comments (filed May 28, 1999).

⁵ In its NRO NPRM, the Commission stated that number optimization solutions must (1) minimize the negative impact on consumers; (2) ensure sufficient access to numbering resources for all service providers that need them to enter into or compete in telecommunications markets; (3) avoid, or at least delay, exhaust of the NANP and the need to expand the NANP; (4) impose the least societal cost possible, in a competitively neutral manner, while obtaining the highest benefit; (5) ensure that no class of carrier or consumer is unduly favored or disfavored by the Commission's optimization efforts; and (6) minimize the incentives for carriers to build and carry excessively large inventories of numbers. NRO NPRM at ¶ 6.

1998, Southwestern Bell Telephone Company had reduced the number of rate centers in the Austin, Dallas, Fort Worth, Houston and San Antonio metropolitan exchanges from 108 to 31.⁶ The Texas PUC has also, through its Number Conservation Implementation Team (NCIT), worked with the industry to reclaim for the Central Office Code Administrator 72 unused central office codes from the Austin/Corpus Christi, Dallas and Houston area codes.⁷ The NCIT also worked to establish temporary expanded local calling areas to maximize central office code availability in the Dallas 972 area code and to establish sequential number assignment to prevent contamination of 1000 number blocks for number pooling.⁸ These actions demonstrate that the Texas PUC has effectively used available measures and solutions, and appears to have worked cooperatively with the industry in several regards.

State regulatory commissions are granted the authority to resolve all matters pertaining to the introduction of new area codes within their states, including the selection of a particular form of area code relief.⁹ States thus have a further opportunity, when choosing an area code relief plan, to implement the most efficient numbering resource solution in accordance with this Commission's rules. Because, as the Commission has observed, state commissions inevitably bear the brunt of consumer dissatisfaction with whatever method of area code relief is chosen,¹⁰

⁶ Petition of the Public Utility Commission of Texas for Expedited Decision for Authority to Implement Number Conservation Measures, NSD File No. L-99-55 (filed July 2, 1999) at 4 (Texas Petition).

⁷ Texas Petition at 4-5.

⁸ Texas Petition at 5.

⁹ 47 C.F.R. § 52.19(a).

¹⁰ NRO NPRM at ¶ 24.

state commissions are often focused on minimizing the impact of new area codes on consumers and may not always select an NPA relief plan that is the most efficient use of the NANP.¹¹ Such may be the current state of affairs in Texas.

Notwithstanding the record that the Texas PUC has established with respect to rate center consolidation and the cooperative implementation of other solutions and measures, it appears that Texas is considering an inefficient area code relief solution when more efficient, resource-optimizing solutions are available. In late-1998, the North American Numbering Plan Administrator (“NANPA”) announced that the supply of NXX codes in the 409 NPA would exhaust in the first quarter of the year 2000. Representatives from major affected telecommunications carriers met and considered alternative relief options on December 15, 1998, and January 13, 1999. A number of plans were considered and discussed. Industry consensus was reached to recommend an all-services overlay. This consensus was communicated to the Texas PUC Staff by letter dated February 10, 1999.

Notwithstanding the industry and public support for an all-services overlay, the PUC Staff recommended four and a half months later that the Texas PUC reject the industry consensus plan, and instead consider either a non-concentrated growth overlay or a three-way geographic area code split. The PUC Staff did not discuss its proposal with the industry prior to the June 30, 1999, agenda meeting at which it made its recommendation. The Texas PUC

¹¹ While such a decision may arguably address the first of the Commission’s six NRO Criteria (minimizing negative impact on consumers), it may not also address ensuring access to numbers for all service providers, avoiding or delaying NANP exhaust and expansion, imposing the least societal cost while obtaining the highest benefit in a competitively neutral manner, ensuring no undue discrimination in favor or against any class of carrier or consumer, and minimizing incentives for carriers to stockpile numbers. NRO NPRM at ¶ 6.

thereafter requested that interested parties comment on the two alternatives proposed by the PUC Staff, but indicated its “strong preference” for the staff-proposed three-way split.

The staff-proposed three-way geographic split that the Texas PUC prefers is more wasteful of numbering resources than the industry consensus recommendation because it will use two additional NPAs, rather than the one additional NPA required by the all-services overlay. It will also result in an increased number of protected central office codes, NXX blocks that must be set aside in order to preserve seven-digit dialing. The industry consensus overlay plan, on the other hand, which has a forecast life of 7.4 years using only one additional NPA, should provide adequate numbering resources in the Houston area. Therefore, it is both unnecessary and wasteful to claim two new NPAs, and substantially increase the number of protected central office codes, in order to provide relief in the 409 area as the PUC Staff has proposed.

One of the major disadvantages of a geographic split compared to an overlay is that a split uniquely and significantly inconveniences both wireless carriers and wireless customers who are served from the new NPA by requiring them to bring their phones to a service center and have them reprogrammed.¹² In the case of the Texas PUC staff’s proposed three-way split, it is a burden that would be imposed on approximately two thirds of the wireless customers in the 409 NPA. Customers of other types of carriers would not be subjected to this requirement. Wireless carriers incur substantial costs in reprogramming customers’ phones with the new area codes, including costs associated with technicians’ time to reprogram the phones, augmenting service department staffing and support, paying overtime costs, hiring third-party vendors,

¹² Because of the dispersion of wireless customers and disparate wireless technologies across Texas’ wide open spaces, it is not feasible to reprogram Houston Cellular’s customers’ phones over the air.

adding physical facilities and purchasing equipment. In considering the instant petition, the Commission should reaffirm the commitment it made to a uniform system of numbering in the *Pennsylvania Order*. The Commission should be especially reluctant to grant additional authority to a state that has indicated a preference to select a discriminatory and resource exhausting area code relief plan when a more efficient, less discriminatory plan has been recommended by industry consensus.

No state should be delegated authority to order thousands block number pooling until finalization of national industry standards for thousands block pooling and a national framework for phased implementation, and the state has thoroughly examined rate center consolidation. Although Texas has examined and implemented rate center consolidation, the Texas PUC nevertheless seeks authority to order thousands block pooling prior to the finalization of national pooling standards despite the fact that the interested industry parties have indicated a desire to implement number pooling pursuant to those standards.¹³ Such a piecemeal approach to number optimization is inimical to both the *Pennsylvania Order* and the Commission's attempts to forge a uniform national numbering solution. In spite of the work of the Texas PUC in examining rate center consolidation, the FCC must not delegate any authority for number pooling before national standards are finalized by the industry and accepted by the FCC. The Texas PUC does not explain how a grant of authority to order number pooling in advance of national standards will preserve a uniform national system of numbering.

¹³ The Texas PUC bases its request on a recent run on central office codes in the 817 NPA. Texas Petition at 8. For the record, Houston Cellular has never requested, and has never been assigned, a central office code out of the 817 NPA.

The Texas PUC also requests sequential numbering enforcement authority.¹⁴ The Texas PUC has not shown why such enforcement authority is needed, particularly in light of its recitation of successful efforts through the NCIT to reclaim 72 central office codes for the central office code administrator from several area codes. Sequential numbering assignment should be the result of industry consensus set forth in the Central Office Code Assignment Guidelines, and enforcement authority should only be granted to the NANPA. BellSouth supports service providers administering their numbering resources inventory in a way that will maximize the number of vacant thousand number blocks in preparation for thousands block pooling. Thousand block number management attempts to achieve high utilization for each thousand block within the NXX before making assignments out of a subsequent thousand blocks. It appears the Texas PUC, through the NCIT, has successfully provided for thousand block management through cooperation with the industry.¹⁵ No further grant of enforcement authority should be made.

Finally, the Texas PUC has made no showing as to why authority to implement any of the remaining administrative measures or alleged optimization solutions requested by it should be granted under the *Pennsylvania Order*. Because the Texas PUC Petition was filed one month after the FCC released its NRO NPRM, it would have been helpful for the Texas PUC to identify

¹⁴ Texas Petition at 10. Because the FCC has not delegated any authority to state commissions in the area of NXX code allocation or administration, *Pennsylvania Order* at 19025, the Texas PUC has no inherent authority to order sequential numbering assignment. There is no empirical data to suggest that sequential numbering assignment is necessary or more effective than thousand block management. Rather, sequential numbering is certain to cause significant and unreasonable administrative and technical burdens for service providers. More importantly, imposition of a sequential numbering requirement would deprive consumers of choice in telephone numbers and service providers. The Texas Petition alleges, however, that sequential number assignment was ordered in Texas “with the cooperation of the industry.” Texas Petition at 4.

¹⁵ Texas Petition at 4-5.

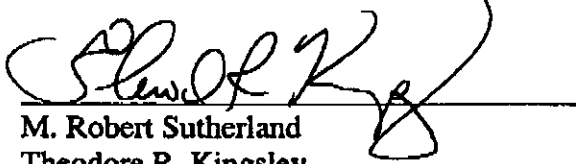
which number exhaust driver or drivers each administrative measure or number optimization solution is intended to address, and to show how each of the Commission's six NRO criteria are met by the proposed solution.¹⁶ The Texas PUC has not carried its their burden of demonstrating why, under the *Pennsylvania Order*, additional authority should be delegated. The Texas PUC has, however, shown that it is in the public interest for this Commission to complete its current number resource optimization rulemaking as expeditiously as possible.

CONCLUSION

The instant petition should be dismissed without prejudice to refile after the Commission has issued a final order in the its current Numbering Resource Optimization Docket.

Respectfully submitted,

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¹⁶ See NRO NPRM at ¶ 6.

CERTIFICATE OF SERVICE

I do hereby certify that I have this 16th day of August, 1999, served the following parties to this action with a copy of the foregoing **BELLSOUTH COMMENTS**, reference NSD File No. L-99-55, and CC Docket No. 96-98, by hand delivery, addressed to the parties listed below.

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